

AMENDED IN SENATE JULY 1, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1677

**Introduced by Committee on Consumer Protection,
Governmental Efficiency and Economic Development
(Davis (Chair), Leach (Vice Chair), Cox, Lempert,
Machado, and Wesson)**

March 16, 1999

~~An act to amend Sections 101, 4996.21, 5000, 5030, 5133, and 7646 of, and to repeal Section 7647 of, the Business and Professions Code, and to amend Sections 101, 4980.45, 4982, 4986.70, 4987.5, 4988.1, 4988.2, 4990.5, 4992.3, 4996.21, 4998, 5000, 5030, 5070.5, 5070.6, 5133, 7646, 7685.2, and 7685.3 of, to amend and renumber Sections 4987.8, 4987.9, 4998.3, 4998.4, 4998.5, 4998.6, and 4998.7 of, to repeal and add Sections 4987.6 and 4998.1 of, and to repeal Sections 4987.7, 4998.2, and 7647 of, the Business and Professions Code, to amend Section 13401 of the Corporations Code, and to amend Sections 7055 and 7100 of the Health and Safety Code, relating to professions and vocations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1677, as amended, Davis. Professions and vocations.

Existing law provides for a State Board of Accountancy in the Department of Consumer Affairs.

This bill would change the name of the board to the California Board of Accountancy. It would also *revise certain license renewal provisions and* make technical changes.

Existing law establishes the Board of Behavioral Sciences and requires it to administer and enforce the law regulating the practice of marriage, family and child counseling and clinical social work. Existing law requires that an applicant for a clinical social workers license demonstrate specified experience as a prerequisite to examination, including experience gained under the supervision of a licensed mental health professional.

This bill would require that the experience gained under the supervision of a licensed mental health professional be provided by a person acceptable to the board. *The bill would define unprofessional conduct as applied to those licensees of the board to include a failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered. The bill would also revise provisions relating to professional corporations for those professions, and would recast and make various technical and clarifying changes to provisions relating to those professions.*

The Funeral Directors and Embalmers Law provides for the licensure and regulation of embalmers, as specified. An applicant for an embalmer's license is required to pass an examination, including certain subjects, which is given by the department as the successor to the board.

This bill would instead require an applicant for an embalmer's license to pass an examination administered by the Conference of Funeral Service Examining Board, which would be given not less than 4 times annually, as specified. The bill would make other related changes.

Existing law requires a declaration of specific instructions to be signed and dated by a person arranging for a cremation and the funeral director.

This bill would additionally authorize an employer or agent of a funeral establishment in charge of arranging or prearranging the cremation to sign that declaration. The bill would make related and technical changes.

A violation of the Funeral Directors and Embalmers Law is a misdemeanor. In enlarging the scope of persons subject to the requirements of that law and thereby increasing the number of persons potentially subject to criminal sanction for

violating those requirements, the bill would impose a state-mandated local program.

Existing law authorizes the transportation of deceased human remains, without a permit, by an officer of a medical college if the remains have been donated to the medical college.

This bill would specifically authorize that transportation of deceased human remains within and between counties.

Existing law provides that the right to control the disposition of remains of a deceased person, the location and conditions of internment and arrangements for funeral goods and services, unless otherwise specified by decedent, vests in certain persons, in a specific order.

This bill would recast this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 101 of the Business and
- 2 Professions Code is amended to read:
- 3 101. The department is comprised of:
- 4 (a) The Board of Dental Examiners of California.
- 5 (b) The Medical Board of California.
- 6 (c) The State Board of Optometry.
- 7 (d) The California State Board of Pharmacy.
- 8 (e) The Veterinary Medical Board.
- 9 (f) The California Board of Accountancy.
- 10 (g) The California State Board of Architectural
- 11 Examiners.
- 12 (h) The State Board of Barbering and Cosmetology.
- 13 (i) The Board for Professional Engineers and Land
- 14 Surveyors.
- 15 (j) The Contractors' State License Board.



- 1 (k) The State Board of Funeral Directors and
2 Embalmers.
3 (l) The Structural Pest Control Board.
4 (m) The Bureau of Home Furnishings and Thermal
5 Insulation.
6 (n) The Board of Registered Nursing.
7 (o) The Board of Behavioral Science Examiners.
8 (p) The State Athletic Commission.
9 (q) The Cemetery Board.
10 (r) The State Board of Guide Dogs for the Blind.
11 (s) The Bureau of Security and Investigative Services.
12 (t) The Court Reporters Board of California.
13 (u) The Board of Vocational Nursing and Psychiatric
14 Technicians.
15 (v) The California State Board of Landscape
16 Architects.
17 (w) The Bureau of Electronic and Appliance Repair.
18 (x) The Division of Investigation.
19 (y) The Bureau of Automotive Repair.
20 (z) The State Board of Registration for Geologists and
21 Geophysicists.
22 (aa) The State Board of Nursing Home
23 Administrators.
24 (ab) The Respiratory Care Examining Committee.
25 (ac) The Acupuncture Examining Committee.
26 (ad) The Board of Psychology.
27 (ae) The California Board of Podiatric Medicine.
28 (af) The Physical Therapy Board.
29 (ag) The Arbitration Review Program.
30 (ah) The Committee on Dental Auxiliaries.
31 (ai) The Hearing Aid Dispensers Examining
32 Committee.
33 (aj) The Physician Assistant Examining Committee.
34 (ak) The Speech-Language Pathology and Audiology
35 Board.
36 (al) The Tax Preparers Program.
37 (am) Any other boards, offices, or officers subject to its
38 jurisdiction by law.
39 SEC. 2. *Section 4980.45 of the Business and*
40 *Professions Code is amended to read:*

1 4980.45. (a) A licensed professional in private
2 practice who is a marriage, family, and child counselor, a
3 psychologist, a clinical social worker, a licensed physician
4 certified in psychiatry by the American Board of
5 Psychiatry and Neurology, or a licensed physician who
6 has completed a residency in psychiatry and who is
7 described in subdivision (f) of Section 4980.40 may
8 supervise or employ, at any one time, no more than two
9 unlicensed marriage, family, and child counselor
10 registered interns in that private practice.

11 (b) A marriage, family, and child counseling
12 corporation, ~~as defined in Section 4987.5,~~ may employ, at
13 any one time, no more than two registered interns for
14 each employee or shareholder who is qualified to provide
15 supervision pursuant to subdivision (f) of Section 4980.40.
16 In no event shall any corporation employ, at any one time,
17 more than 10 registered interns. In no event shall any
18 supervisor supervise, at any one time, more than two
19 registered interns. Persons who supervise interns shall be
20 employed full time by the professional corporation and
21 shall be actively engaged in performing professional
22 services at and for the professional corporation.
23 Employment and supervision within a marriage, family,
24 and child counseling corporation shall be subject to all
25 laws and regulations governing experience and
26 supervision gained in a private practice setting.

27 (c) Within 30 days of employment and within 30 days
28 of termination of employment, in any allowable work
29 setting, a registered intern shall notify the board in
30 writing of the employment or termination of
31 employment. The notice shall include the name of the
32 registered intern, the full name and business address of
33 the employer, the type of work setting where the intern
34 is gaining hours of experience, and the date employment
35 commenced or terminated. If an intern fails to notify the
36 board within 30 days after the date of his or her
37 employment or termination of employment, the board
38 shall not accept any hours of experience gained during
39 that period of employment prior to notification for the
40 purposes of meeting the experience requirements for

1 licensure. The board may, at its discretion, waive this
2 requirement when it believes good cause exists.
3 “Employment,” as used in this section, means the gaining
4 of hours of experience in an allowable setting as an
5 employee or as a volunteer. This subdivision does not
6 apply to hours gained on or after January 1, 1994.

7 *SEC. 3. Section 4982 of the Business and Professions*
8 *Code is amended to read:*

9 4982. The board may refuse to issue any registration
10 or license, or may suspend or revoke the license or
11 registration of any registrant or licensee if the applicant,
12 licensee, or registrant has been guilty of unprofessional
13 conduct. Unprofessional conduct shall include, but not be
14 limited to:

15 (a) The conviction of a crime substantially related to
16 the qualifications, functions, or duties of a licensee or
17 registrant under this chapter. The record of conviction
18 shall be conclusive evidence only of the fact that the
19 conviction occurred. The board may inquire into the
20 circumstances surrounding the commission of the crime
21 in order to fix the degree of discipline or to determine if
22 the conviction is substantially related to the
23 qualifications, functions, or duties of a licensee or
24 registrant under this chapter. A plea or verdict of guilty
25 or a conviction following a plea of nolo contendere made
26 to a charge substantially related to the qualifications,
27 functions, or duties of a licensee or registrant under this
28 chapter shall be deemed to be a conviction within the
29 meaning of this section. The board may order any license
30 or registration suspended or revoked, or may decline to
31 issue a license or registration when the time for appeal has
32 elapsed, or the judgment of conviction has been affirmed
33 on appeal, or, when an order granting probation is made
34 suspending the imposition of sentence, irrespective of a
35 subsequent order under Section 1203.4 of the Penal Code
36 allowing any such person to withdraw a plea of guilty and
37 enter a plea of not guilty, or setting aside the verdict of
38 guilty, or dismissing the accusation, information, or
39 indictment.

1 (b) Securing a license or registration by fraud, deceit,
2 or misrepresentation on any application for licensure or
3 registration submitted to the board, whether engaged in
4 by an applicant for a license or registration, or by a
5 licensee in support of any application for licensure or
6 registration.

7 (c) Administering to himself or herself any controlled
8 substance or using of any of the dangerous drugs specified
9 in Section 4211, or of any alcoholic beverage to the extent,
10 or in a manner, as to be dangerous or injurious to the
11 person applying for a registration or license or holding a
12 registration or license under this chapter, or to any other
13 person, or to the public, or, to the extent that the use
14 impairs the ability of the person applying for or holding
15 a registration or license to conduct with safety to the
16 public the practice authorized by the registration or
17 license, or the conviction of more than one misdemeanor
18 or any felony involving the use, consumption, or
19 self-administration of any of the substances referred to in
20 this subdivision, or any combination thereof. The board
21 shall deny an application for a registration or license or
22 revoke the license or registration of any person, other
23 than one who is licensed as a physician and surgeon, who
24 uses or offers to use drugs in the course of performing
25 marriage, family, and child counseling services.

26 (d) Gross negligence or incompetence in the
27 performance of marriage, family, and child counseling.

28 (e) Violating, attempting to violate, or conspiring to
29 violate any of the provisions of this chapter or any
30 regulation adopted by the board.

31 (f) Misrepresentation as to the type or status of a
32 license or registration held by the person, or otherwise
33 misrepresenting or permitting misrepresentation of his
34 or her education, professional qualifications, or
35 professional affiliations to any person or entity.

36 (g) Impersonation of another by any licensee,
37 registrant, or applicant for a license or registration, or, in
38 the case of a licensee, allowing any other person to use his
39 or her license or registration.

1 (h) Aiding or abetting, or employing, directly or
2 indirectly, any unlicensed or unregistered person to
3 engage in conduct for which a license or registration is
4 required under this chapter.

5 (i) Intentionally or recklessly causing physical or
6 emotional harm to any client.

7 (j) The commission of any dishonest, corrupt, or
8 fraudulent act substantially related to the qualifications,
9 functions, or duties of a licensee or registrant.

10 (k) Engaging in sexual relations with a client, or a
11 former client within two years following termination of
12 therapy, soliciting sexual relations with a client, or
13 committing an act of sexual abuse, or sexual misconduct
14 with a client, or committing an act punishable as a
15 sexually related crime, if that act or solicitation is
16 substantially related to the qualifications, functions, or
17 duties of a marriage, family, and child counselor.

18 (l) Performing, or holding one's self out as being able
19 to perform, or offering to perform, or permitting any
20 registered trainee or registered intern under supervision
21 to perform, any professional services beyond the scope of
22 the license authorized by this chapter.

23 (m) Failure to maintain confidentiality, except as
24 otherwise required or permitted by law, of all
25 information that has been received from a client in
26 confidence during the course of treatment and all
27 information about the client which is obtained from tests
28 or other means.

29 (n) Prior to the commencement of treatment, failing
30 to disclose to the client or prospective client the fee to be
31 charged for the professional services, or the basis upon
32 which that fee will be computed.

33 (o) Paying, accepting, or soliciting any consideration,
34 compensation, or remuneration, whether monetary or
35 otherwise, for the referral of professional clients. All
36 consideration, compensation, or remuneration shall be in
37 relation to professional counseling services actually
38 provided by the licensee. Nothing in this subdivision shall
39 prevent collaboration among two or more licensees in a
40 case or cases. However, no fee shall be charged for that

1 collaboration, except when disclosure of the fee has been
2 made in compliance with subdivision (n).

3 (p) Advertising in a manner which is false, misleading,
4 or deceptive.

5 (q) Reproduction or description in public, or in any
6 publication subject to general public distribution, of any
7 psychological test or other assessment device, the value
8 of which depends in whole or in part on the naivete of the
9 subject, in ways that might invalidate the test or device.

10 (r) Any conduct in the supervision of any registered
11 intern or registered trainee by any licensee that violates
12 this chapter or any rules or regulations adopted by the
13 board.

14 (s) Performing or holding one's self out as being able
15 to perform, professional services beyond the scope of
16 one's competence, as established by one's education,
17 training, or experience. This subdivision shall not be
18 construed to expand the scope of the license authorized
19 by this chapter.

20 (t) Permitting a registered trainee or registered
21 intern under one's supervision or control to perform, or
22 permitting the registered trainee or registered intern to
23 hold one's self out as competent to perform, professional
24 services beyond the registered trainee's or registered
25 intern's level of education, training, or experience.

26 (u) The violation of any statute or regulation
27 governing the gaining and supervision of experience
28 required by this chapter.

29 (v) *Failure to keep records consistent with sound*
30 *clinical judgment, the standards of the profession, and the*
31 *nature of the services being rendered.*

32 SEC. 4. Section 4986.70 of the Business and
33 Professions Code is amended to read:

34 4986.70. The board may refuse to issue a license, or
35 may suspend or revoke the license of any licensee if he or
36 she has been guilty of unprofessional conduct which has
37 endangered or is likely to endanger the health, welfare,
38 or safety of the public. Unprofessional conduct includes,
39 but is not limited to, the following:

1 (a) Conviction of a crime substantially related to the
2 qualifications, functions and duties of an educational
3 psychologist, the record of conviction being conclusive
4 evidence thereof.

5 (b) Securing a license by fraud or deceit.

6 (c) Using any narcotic as defined in Division 10
7 (commencing with Section 11000) of the Health and
8 Safety Code or any hypnotic drug or alcoholic beverage
9 to an extent or in a manner dangerous to himself or
10 herself, or to any other person, or to the public and to an
11 extent that such action impairs his or her ability to
12 perform his or her work as a licensed educational
13 psychologist with safety to the public.

14 (d) Improper advertising.

15 (e) Violating or conspiring to violate the terms of this
16 article.

17 (f) Committing a dishonest or fraudulent act as a
18 licensed educational psychologist resulting in substantial
19 injury to another.

20 (g) Denial of licensure, revocation, suspension,
21 restriction, or any other disciplinary action imposed by
22 another state or territory or possession of the United
23 States, or by any other governmental agency, on a license,
24 certificate, or registration to practice educational
25 psychology or any other healing art, shall constitute
26 unprofessional conduct. A certified copy of the
27 disciplinary action, decision, or judgment shall be
28 conclusive evidence of that action.

29 (h) Revocation, suspension, or restriction by the board
30 of a license, certificate, or registration to practice as a
31 clinical social worker or marriage, family and child
32 counselor shall constitute grounds for disciplinary action
33 for unprofessional conduct against the licensee or
34 registrant under this chapter.

35 (i) *Failure to keep records consistent with sound*
36 *clinical judgment, the standards of the profession, and the*
37 *nature of the services being rendered.*

38 SEC. 5. Section 4987.5 of the Business and Professions
39 Code is amended to read:

1 4987.5. A marriage, family, and child counseling
 2 corporation is a corporation ~~which~~ *that* is registered with
 3 the Board of Behavioral Sciences and has a currently
 4 effective certificate of registration from the board
 5 pursuant to the Moscone-Knox Professional Corporation
 6 Act, as contained in Part 4 (commencing with Section
 7 13400) of Division 3 of Title 1 of the Corporations Code,
 8 and this article. Subject to all applicable statutes, rules
 9 and regulations, the marriage, family, and child
 10 counseling corporation is entitled to practice marriage,
 11 family, and child counseling. ~~authorized to render~~
 12 professional services, as defined in Section 13401 of the
 13 Corporations Code, so long as that corporation and its
 14 shareholders, officers, directors, and employees
 15 rendering professional services who are marriage, family,
 16 and child counselors, physicians and surgeons,
 17 psychologists, licensed clinical social workers, registered
 18 nurses, chiropractors, or acupuncturists are in
 19 compliance with the Moscone-Knox Professional
 20 Corporation Act (Part 4 (commencing with Section
 21 13400) of Division 3 of Title 1 of the Corporations Code),
 22 this article, and any other statute or regulation pertaining
 23 to that corporation and the conduct of its affairs. With
 24 respect to a marriage, family, and child counseling
 25 corporation, the governmental agency referred to in the
 26 Moscone-Knox Professional Corporation Act is the Board
 27 of Behavioral Sciences.

28 *SEC. 6. Section 4987.6 of the Business and Professions*
 29 *Code is repealed.*

30 ~~4987.6. An applicant for registration as a marriage,~~
 31 ~~family, and child counseling corporation shall supply to~~
 32 ~~the board all necessary and pertinent documents and~~
 33 ~~information requested by the board concerning the~~
 34 ~~applicant's plan of operation. The board may provide~~
 35 ~~forms of application. If the board finds that the~~
 36 ~~corporation is duly organized and existing pursuant to the~~
 37 ~~General Corporation Law, that, except as provided in~~
 38 ~~Section 13403 of the Corporations Code, each officer,~~
 39 ~~director, shareholder and each employee who will render~~
 40 ~~professional services is a licensed person as defined in the~~

~~1 Moscone-Knox Professional Corporation Act, and that
2 from the application it appears that the affairs of the
3 corporation will be conducted in compliance with law
4 and the rules and regulations of the board, the board shall,
5 upon payment of the registration fee in such amount as
6 it may determine, issue a certificate of registration. The
7 application shall be signed and verified by an officer of
8 the corporation.~~

9 *SEC. 7. Section 4987.6 is added to the Business and
10 Professions Code, to read:*

11 *4987.6. It shall constitute unprofessional conduct and
12 a violation of this chapter for any person licensed under
13 this chapter to violate, attempt to violate, directly or
14 indirectly, or assist in or abet the violation of, or conspire
15 to violate, any provision or term of this article, the
16 Moscone-Knox Professional Corporation Act (Part 4
17 (commencing with Section 13400) of Division 3 of Title
18 1 of the Corporations Code), or any regulations duly
19 adopted under those laws.*

20 *SEC. 8. Section 4987.7 of the Business and Professions
21 Code is repealed.*

22 ~~4987.7. Each marriage, family, and child counseling
23 corporation shall file with the board, annually and at such
24 other times as the board may require, a report containing
25 such information pertaining to qualification and
26 compliance with the statutes, rules and regulations of the
27 board as the board may determine. The fee for filing such
28 a report shall be fixed by the board. All reports shall be
29 signed and verified by an officer of the corporation.~~

30 *SEC. 9. Section 4987.8 of the Business and Professions
31 Code is amended and renumbered to read:*

32 ~~4987.8.~~

33 *4987.7. The name of a marriage, family, and child
34 counseling corporation shall contain one or more of the
35 words "marriage," "family," and "child" together with
36 one or more of the words "counseling" or "counseling,"
37 "counselor," or "therapist," and wording or abbreviations
38 denoting corporate existence. A marriage, family, and
39 child counseling corporation that conducts business
40 under a fictitious business name shall not use any name*

1 which is false, misleading or deceptive, and shall inform
2 the patient, prior to the commencement of treatment,
3 that the business is conducted by a marriage, family, and
4 child counseling corporation.

5 *SEC. 10. Section 4987.9 of the Business and*
6 *Professions Code is amended and renumbered to read:*

7 ~~4987.9.~~

8 4987.8. Except as provided in Section 13403 of the
9 Corporations Code, each director, shareholder, and
10 officer of a marriage, family, and child counseling
11 corporation shall be a licensed person as defined in the
12 Moscone-Knox Professional Corporation Act.

13 *SEC. 11. Section 4988.1 of the Business and*
14 *Professions Code is amended to read:*

15 4988.1. A marriage, family, and child counseling
16 corporation shall not do or fail to do any act the doing of
17 which or the failure to do which would constitute
18 unprofessional conduct under any statute, rule or
19 regulation now or hereafter in effect. In the conduct of its
20 practice, it shall observe and be bound by such statutes,
21 rules and regulations to the same extent as a person
22 holding a license ~~under Section 4980.50. The board shall~~
23 ~~have the same powers of suspension, revocation and~~
24 ~~discipline against a marriage, family, and child counseling~~
25 ~~corporation as are now or hereafter authorized by Section~~
26 ~~4982, or by any other similar statute against individual~~
27 ~~licensees, provided, however, that proceedings against a~~
28 ~~marriage, family, and child counseling corporation shall~~
29 ~~be conducted in accordance with Chapter 5~~
30 ~~(commencing with Section 11500) of Part 1 of Division 3~~
31 ~~of Title 2 of the Government Code, and the board shall~~
32 ~~have all the powers granted therein as a marriage, family,~~
33 ~~and child counselor.~~

34 *SEC. 12. Section 4988.2 of the Business and*
35 *Professions Code is amended to read:*

36 4988.2. The board may formulate and enforce rules
37 and regulations to carry out the purposes and objectives
38 of this article, including rules and regulations requiring
39 (a) that the articles of incorporation or bylaws of a
40 marriage, family, and child counseling corporation shall

1 include a provision whereby the capital stock of such
2 corporation owned by a disqualified person (as defined in
3 the Moscone-Knox Professional Corporation Act), or a
4 deceased person, shall be sold to the corporation or to the
5 remaining shareholders of such corporation within such
6 time as such rules and regulations may provide, and (b)
7 that a marriage, family, and child counseling corporation
8 ~~as a condition of obtaining a certificate pursuant to the~~
9 ~~Moscone-Knox Professional Corporation Act and this~~
10 ~~article~~ shall provide adequate security by insurance or
11 otherwise for claims against it by its patients arising out
12 of the rendering of professional services.

13 *SEC. 13. Section 4990.5 of the Business and*
14 *Professions Code is amended to read:*

15 4990.5. Each member of the board, except the
16 members first appointed, shall be appointed for a term of
17 four years and shall hold office until the appointment and
18 qualification of his or her successor or until one year shall
19 have elapsed since the expiration of the term for which
20 he or she was appointed, whichever first occurs.
21 Vacancies occurring shall be filled by appointment for the
22 unexpired term.

23 The Governor shall appoint four of the public members
24 and the five licensed members qualified as provided in
25 Section ~~4990.4~~ 4990.3 with the advice and consent of the
26 Senate. The Senate Rules Committee and the Speaker of
27 the Assembly shall each appoint a public member, and
28 their initial appointment shall be made to fill,
29 respectively, the first and second public member
30 vacancies which occur on or after January 1, 1983.

31 *SEC. 14. Section 4992.3 of the Business and*
32 *Professions Code is amended to read:*

33 4992.3. The board may refuse to issue a registration or
34 a license, or may suspend or revoke the license or
35 registration of any registrant or licensee if the applicant,
36 licensee, or registrant has been guilty of unprofessional
37 conduct. Unprofessional conduct includes, but is not
38 limited to:

39 (a) The conviction of a crime substantially related to
40 the qualifications, functions, or duties of a licensee or

1 registrant under this chapter. The record of conviction
 2 shall be conclusive evidence only of the fact that the
 3 conviction occurred. The board may inquire into the
 4 circumstances surrounding the commission of the crime
 5 in order to fix the degree of discipline or to determine if
 6 the conviction is substantially related to the
 7 qualifications, functions, or duties of a licensee or
 8 registrant under this chapter. A plea or verdict of guilty
 9 or a conviction following a plea of nolo contendere made
 10 to a charge substantially related to the qualifications,
 11 functions, or duties of a licensee or registrant under this
 12 chapter is a conviction within the meaning of this section.
 13 The board may order any license or registration
 14 suspended or revoked, or may decline to issue a license
 15 or registration when the time for appeal has elapsed, or
 16 the judgment of conviction has been affirmed on appeal,
 17 or, when an order granting probation is made suspending
 18 the imposition of sentence, irrespective of a subsequent
 19 order under Section 1203.4 of the Penal Code allowing the
 20 person to withdraw a plea of guilty and enter a plea of not
 21 guilty, or setting aside the verdict of guilty, or dismissing
 22 the accusation, information, or indictment.

23 (b) Securing a license or registration by fraud, deceit,
 24 or misrepresentation on any application for licensure or
 25 registration submitted to the board, whether engaged in
 26 by an applicant for a license or registration, or by a
 27 licensee in support of any application for licensure or
 28 registration.

29 (c) Administering to himself or herself any controlled
 30 substance or using of any of the dangerous drugs specified
 31 in Section 4211, or of any alcoholic beverage to the extent,
 32 or in a manner, as to be dangerous or injurious to the
 33 person applying for a registration or license or holding a
 34 registration or license under this chapter, or to any other
 35 person, or to the public, or, to the extent that the use
 36 impairs the ability of the person applying for or holding
 37 a registration or license to conduct with safety to the
 38 public the practice authorized by the registration or
 39 license, or the conviction of more than one misdemeanor
 40 or any felony involving the use, consumption, or

1 self-administration of any of the substances referred to in
2 this subdivision, or any combination thereof. The board
3 shall deny an application for a registration or license or
4 revoke the license or registration of any person who uses
5 or offers to use drugs in the course of performing clinical
6 social work. This provision does not apply to any person
7 also licensed as a physician and surgeon under Chapter 5
8 (commencing with Section 2000) or the Osteopathic Act
9 who lawfully prescribes drugs to a patient under his or her
10 care.

11 (d) Gross negligence or incompetence in the
12 performance of clinical social work.

13 (e) Violating, attempting to violate, or conspiring to
14 violate this chapter or any regulation adopted by the
15 board.

16 (f) Misrepresentation as to the type or status of a
17 license or registration held by the person, or otherwise
18 misrepresenting or permitting misrepresentation of his
19 or her education, professional qualifications, or
20 professional affiliations to any person or entity. For
21 purposes of this subdivision, this misrepresentation
22 includes, but is not limited to, misrepresentation of the
23 person's qualifications as an adoption service provider
24 pursuant to Section 8502 of the Family Code.

25 (g) Impersonation of another by any licensee,
26 registrant, or applicant for a license or registration, or, in
27 the case of a licensee, allowing any other person to use his
28 or her license or registration.

29 (h) Aiding or abetting any unlicensed or unregistered
30 person to engage in conduct for which a license or
31 registration is required under this chapter.

32 (i) Intentionally or recklessly causing physical or
33 emotional harm to any client.

34 (j) The commission of any dishonest, corrupt, or
35 fraudulent act substantially related to the qualifications,
36 functions, or duties of a licensee or registrant.

37 (k) Engaging in sexual relations with a client, soliciting
38 sexual relations with a client, or committing an act of
39 sexual abuse, or sexual misconduct with a client, or
40 committing an act punishable as a sexually related crime,



1 if that act or solicitation is substantially related to the
2 qualifications, functions, or duties of a clinical social
3 worker.

4 (l) Performing, or holding one's self out as being able
5 to perform, or offering to perform or permitting, any
6 registered associate clinical social worker or intern under
7 supervision to perform any professional services beyond
8 the scope of the license authorized by this chapter.

9 (m) Failure to maintain confidentiality, except as
10 otherwise required or permitted by law, of all
11 information that has been received from a client in
12 confidence during the course of treatment and all
13 information about the client which is obtained from tests
14 or other means.

15 (n) Prior to the commencement of treatment, failing
16 to disclose to the client or prospective client the fee to be
17 charged for the professional services, or the basis upon
18 which that fee will be computed.

19 (o) Paying, accepting, or soliciting any consideration,
20 compensation, or remuneration, whether monetary or
21 otherwise, for the referral of professional clients. All
22 consideration, compensation, or remuneration shall be in
23 relation to professional counseling services actually
24 provided by the licensee. Nothing in this subdivision shall
25 prevent collaboration among two or more licensees in a
26 case or cases. However, no fee shall be charged for that
27 collaboration, except when disclosure of the fee has been
28 made in compliance with subdivision (n).

29 (p) Advertising in a manner which is false, misleading,
30 or deceptive.

31 (q) Reproduction or description in public, or in any
32 publication subject to general public distribution, of any
33 psychological test or other assessment device, the value
34 of which depends in whole or in part on the naivete of the
35 subject, in ways that might invalidate the test or device.

36 (r) Any conduct in the supervision of any registered
37 associate clinical social worker or intern by any licensee
38 that violates this chapter or any rules or regulations
39 adopted by the board.

1 (s) *Failure to keep records consistent with sound*
2 *clinical judgment, the standards of the profession, and the*
3 *nature of the services being rendered.*

4 SEC. 15. Section 4996.21 of the Business and
5 Professions Code is amended to read:

6 4996.21. The experience required by subdivision (c)
7 of Section 4996.2 shall meet the following criteria:

8 (a) On or after January 1, 1999, a registrant shall have
9 at least 3,200 hours of post-master's experience,
10 supervised by a licensed clinical social worker, in
11 providing clinical social work services as permitted by
12 Section 4996.9. Experience shall consist of the following:

13 (1) A minimum of 2,000 hours in psychosocial
14 diagnosis, assessment, and treatment, including
15 psychotherapy and counseling.

16 (2) A maximum of 1,200 hours in client-centered
17 advocacy, consultation, evaluation, and research.

18 (3) Experience shall have been gained in not less than
19 two nor more than six years and shall have been gained
20 within the six years immediately preceding the date on
21 which the application for licensure was filed.

22 (b) Notwithstanding the requirements of subdivision
23 (a), up to 1,000 hours of the required experience may be
24 gained under the supervision of a licensed mental health
25 professional acceptable to the board.

26 (1) Supervision means responsibility for and control of
27 the quality of clinical social work services being provided.

28 (2) Consultation shall not be considered to be
29 supervision.

30 (3) Supervision shall include at least one hour of direct
31 supervisor contact for each week of experience claimed
32 and shall include at least one hour of direct supervisor
33 contact for every 10 hours of client contact in each setting
34 where experience is gained. Not less than one-half of the
35 hours of required supervision shall be individual
36 supervision. The remaining hours may be group
37 supervision. For purposes of this section, "one hour of
38 direct supervisor contact" means one hour of face-to-face
39 contact on an individual basis or two hours of face-to-face
40 contact in a group setting of not more than eight persons.

1 (4) The supervisor and the supervisee shall develop a
2 supervisory plan that describes the goals and objectives
3 of supervision. These goals shall include the ongoing
4 assessment of strengths and limitations and the assurance
5 of practice in accordance with the laws and regulations.
6 The associate shall submit to the board the initial
7 supervisory plan within 30 days of commencement of
8 supervision. The supervisor shall submit to the board
9 within 30 days of termination of supervision evidence of
10 satisfactorily completed supervised experience by the
11 supervisee.

12 (c) A “private practice setting” is any setting other
13 than a governmental entity, a school, college, or
14 university, a nonprofit and charitable corporation, a
15 licensed health facility, as defined in Sections 1250, 1250.2,
16 and 1250.3 of the Health and Safety Code, a social
17 rehabilitation facility or a community treatment facility,
18 as defined in subdivision (a) of Section 1502 of the Health
19 and Safety Code, a pediatric day health and respite care
20 facility, as defined in Section 1760.2 of the Health and
21 Safety Code, or a licensed alcoholism or drug abuse
22 recovery or treatment facility, as defined in Section
23 11834.02 of the Health and Safety Code.

24 (1) In a setting that is not a private practice, a
25 registrant shall be employed on either a voluntary or paid
26 basis.

27 (2) If volunteering, the registrant shall provide the
28 board with a letter from his or her employer verifying his
29 or her voluntary status upon application for licensure.

30 (3) If employed, the registrant shall provide the board
31 with copies of his or her W-2 tax forms for each year of
32 experience claimed upon application for licensure.

33 (d) Employment in a private practice setting shall not
34 commence until the applicant has been registered as an
35 associate clinical social worker. A registrant employed in
36 a private practice setting shall not do any of the following:

37 (1) Pay his or her employer or supervisor for
38 supervision, and shall receive fair remuneration from his
39 or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(e) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the registrant's social work services.

~~SEC. 3.~~

SEC. 16. Section 4998 of the Business and Professions Code is amended to read:

~~4998. "Licensed clinical social workers corporation" is a corporation that is registered with the Board of Behavioral Sciences and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act and this article. Subject to all applicable statutes, rules, and regulations, the licensed clinical social workers corporation is entitled to practice clinical social work. A licensed clinical social worker corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed clinical social workers, physicians and surgeons, psychologists, marriage, family, and child counselors, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs. With respect to a licensed clinical social workers corporation, the governmental agency referred to in the Moscone-Knox~~

1 Professional Corporation Act is the Board of Behavioral
2 Sciences.

3 *SEC. 17. Section 4998.1 of the Business and*
4 *Professions Code is repealed.*

5 ~~4998.1. An applicant for registration as a licensed~~
6 ~~clinical social workers corporation shall supply to the~~
7 ~~board all necessary and pertinent documents and~~
8 ~~information requested by the board concerning the~~
9 ~~applicant's plan of operation. The board may provide~~
10 ~~forms of application. The board shall issue a certificate of~~
11 ~~registration if the applicant satisfies the following~~
12 ~~requirements:~~

13 ~~(a) The corporation is duly organized and existing~~
14 ~~pursuant to the General Corporation Law.~~

15 ~~(b) Except as provided in Section 13403 of the~~
16 ~~Corporations Code, each officer, director, shareholder~~
17 ~~and each employee who will render professional services~~
18 ~~is a licensed person as defined in the Moscone-Knox~~
19 ~~Professional Corporation Act.~~

20 ~~(c) From the application it appears that the affairs of~~
21 ~~the corporation will be conducted in compliance with the~~
22 ~~law and the rules and regulations of the board.~~

23 ~~(d) The applicant pays a registration fee in such~~
24 ~~amount as the board may determine.~~

25 ~~The application shall be signed and verified by an~~
26 ~~officer of the corporation.~~

27 *SEC. 18. Section 4998.1 is added to the Business and*
28 *Professions Code, to read:*

29 *4998.1. It shall constitute unprofessional conduct and*
30 *a violation of this chapter for any person licensed under*
31 *this chapter to violate, attempt to violate, directly or*
32 *indirectly, or assist in or abet the violation of, or conspire*
33 *to violate, any provision or term of this article, the*
34 *Moscone-Knox Professional Corporation Act (Part 4*
35 *(commencing with Section 13400) of Division 3 of Title*
36 *1 of the Corporations Code), or any regulations duly*
37 *adopted under those laws.*

38 *SEC. 19. Section 4998.2 of the Business and*
39 *Professions Code is repealed.*

~~4998.2. Each licensed clinical social workers corporation shall file with the board annually and at such other times as the board may require a report containing such information pertaining to qualification and compliance with the statutes, rules, and regulations of the board as the board may determine. The fee for filing a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.~~

SEC. 20. Section 4998.3 of the Business and Professions Code is amended and renumbered to read:

~~4998.3.~~

4998.2. Notwithstanding Section 4996, the name of a licensed clinical social workers corporation and any name or names under which it may be rendering professional services shall contain the words “licensed clinical social workers” worker” and wording or abbreviations denoting corporate existence.

A licensed clinical social workers corporation that conducts business under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a licensed clinical social workers corporation.

SEC. 21. Section 4998.4 of the Business and Professions Code is amended and renumbered to read:

~~4998.4.~~

4998.3. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a licensed clinical social workers worker corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

SEC. 22. Section 4998.5 of the Business and Professions Code is amended and renumbered to read:

~~4998.5.~~

4998.4. The income of a licensed clinical social workers worker corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code),

1 shall not in any manner accrue to the benefit of that
2 shareholder or his or her shares in the licensed clinical
3 social workers corporation.

4 *SEC. 23. Section 4998.6 of the Business and*
5 *Professions Code is amended and renumbered to read:*

6 ~~4998.6.~~

7 4998.5. A licensed clinical social workers corporation
8 shall not do or fail to do any act the doing of which or the
9 failure to do which would constitute unprofessional
10 conduct under any statute, rule, or regulation now or
11 hereafter in effect. In the conduct of its practice, it shall
12 observe and be bound by those statutes, rules, and
13 regulations to the same extent as a person holding a
14 license under Section 4996.1. ~~The board shall have the~~
15 ~~same powers of suspension, revocation, and discipline~~
16 ~~against a licensed clinical social workers corporation as~~
17 ~~are now or hereafter authorized by Section 4996.11, or by~~
18 ~~any other similar statute against individual licensees.~~
19 ~~Proceedings against a licensed clinical social workers~~
20 ~~corporation shall be conducted in accordance with~~
21 ~~Chapter 5 (commencing with Section 11500) of Part 1 of~~
22 ~~Division 3 of Title 2 of the Government Code, and the~~
23 ~~board shall have all the powers granted in that chapter~~
24 ~~as a licensed clinical social worker.~~

25 *SEC. 24. Section 4998.7 of the Business and*
26 *Professions Code is amended and renumbered to read:*

27 ~~4998.7.~~

28 4998.6. The board may formulate and enforce rules
29 and regulations to carry out the purposes and objectives
30 of this article, including rules and regulations requiring
31 (a) that the articles of incorporation or bylaws of a
32 licensed clinical social workers corporation shall include
33 a provision whereby the capital stock of that corporation
34 owned by a disqualified person, as defined in the
35 Moscone-Knox Professional Corporation Act, or a
36 deceased person, shall be sold to the corporation or to the
37 remaining shareholders of that corporation within such
38 time as the rules and regulations may provide, and (b)
39 that a licensed clinical social ~~workers corporation as a~~
40 ~~condition of obtaining a certificate pursuant to the~~

1 ~~Moseone-Knox Professional Corporation Act and this~~
2 ~~article~~ *worker corporation* shall provide adequate
3 security by insurance or otherwise for claims against it by
4 its patients arising out of the rendering of professional
5 services.

6 SEC. 25. Section 5000 of the Business and Professions
7 Code is amended to read:

8 5000. There is in the Department of Consumer Affairs
9 the California Board of Accountancy, which consists of 10
10 members, five of whom shall be certified public
11 accountants, one of whom shall be a public accountant,
12 and four of whom shall be public members who shall not
13 be licentiates of the board or registered by the board. The
14 board has the powers and duties conferred by this
15 chapter.

16 The Governor shall appoint two of the public members,
17 the five certified public accountant members, and the
18 public accountant member qualified as provided in this
19 section. The Senate Rules Committee and the Speaker of
20 the Assembly shall each appoint a public member. In
21 appointing the five certified public accountant members,
22 the Governor shall appoint members representing a cross
23 section of the accounting profession with at least one
24 member representing a small public accounting firm. For
25 the purposes of this chapter, a small public accounting
26 firm shall be defined as a professional firm that employs
27 a total of no more than four certified public accountants
28 as partners, owners, or full-time employees in the
29 practice of public accountancy within the State of
30 California.

31 This section shall become operative on July 1, 1997, and
32 shall become inoperative on July 1, 2001, and as of January
33 1, 2002, is repealed, unless a later enacted statute, that
34 becomes effective on or before January 1, 2002, deletes or
35 extends the dates on which this section becomes
36 inoperative and is repealed. The repeal of this section
37 renders the board subject to the review required by
38 Division 1.2 (commencing with Section 473).

39 ~~SEC. 4.~~

1 SEC. 26. Section 5030 of the Business and Professions
2 Code is amended to read:

3 5030. "Board" means the California Board of
4 Accountancy.

5 ~~SEC. 5.~~

6 SEC. 27. Section 5070.5 of the Business and
7 Professions Code is amended to read:

8 ~~5070.5. Permits issued under this chapter expire~~

9 (a) *A permit to practice as a certified public accountant*
10 *or a public accountant expires at 12 midnight on the last*
11 *day of the month of the legal birthday of the licensee*
12 *during the second year of a two-year term if not renewed.*

13 To renew an unexpired permit, a ~~certificate holder or~~
14 ~~registrant~~ *permit holder* shall, before the time at which
15 the permit would otherwise expire, apply for renewal on
16 a form prescribed by the board, pay the renewal fee
17 prescribed by this chapter and give evidence *satisfactory*
18 to the board that he or she has complied with the
19 continuing education provisions of this chapter.

20 (b) *A permit to practice as an accountancy*
21 *partnership or an accountancy corporation expires at 12*
22 *midnight on the last day of the month in which the permit*
23 *was initially issued during the second year of a two-year*
24 *term if not renewed. To renew an unexpired permit, the*
25 *permit holder shall, before the time at which the permit*
26 *would otherwise expire, apply for renewal on a form*
27 *prescribed by the board, pay the renewal fee prescribed*
28 *by this chapter, and provide evidence satisfactory to the*
29 *board that the accountancy partnership or accountancy*
30 *corporation is in compliance with this chapter.*

31 SEC. 28. Section 5070.6 of the Business and
32 Professions Code is amended to read:

33 5070.6. Except as otherwise provided in this chapter,
34 an expired permit may be renewed at any time within
35 five years after its expiration ~~on~~ *upon the filing of an*
36 *application for renewal on a form prescribed by the*
37 *board, payment of all accrued and unpaid renewal fees*
38 ~~and on and after December 31, 1974, giving evidence to~~
39 ~~the board of compliance with the continuing education~~
40 ~~provisions of this chapter providing evidence satisfactory~~

1 *to the board of compliance as required by Section 5070.5.*
2 If the permit is renewed after its expiration, its holder, as
3 a condition precedent to renewal, shall also pay the
4 delinquency fee prescribed by this chapter. Renewal
5 under this section shall be effective on the date on which
6 the application is filed, on the date on which the accrued
7 renewal fees are paid, or on the date on which the
8 delinquency fee, if any, is paid, whichever last occurs. If
9 so renewed, the permit shall continue in effect through
10 the date provided in Section 5070.5 that next occurs after
11 the effective date of the renewal, when it shall expire if
12 it is not again renewed.

13 SEC. 29. Section 5133 of the Business and Professions
14 Code is amended to read:

15 5133. All money in the Accountancy Fund is hereby
16 appropriated to the California Board of Accountancy to
17 carry out the provisions of this chapter. Each member of
18 the board and each member of a committee shall receive
19 a per diem and expenses as provided in Section 103.

20 ~~SEC. 6.~~

21 SEC. 30. Section 7646 of the Business and Professions
22 Code is amended to read:

23 7646. The program shall require the applicant to pass
24 ~~an a national board~~ examination, known as the National
25 Board, administered by ~~the Conference of Funeral~~
26 ~~Service Examining Board~~ *a national organization*
27 *approved by the program.* The program may add
28 additional testing requirements regarding state laws,
29 rules, and regulations.

30 ~~SEC. 7.~~

31 SEC. 31. Section 7647 of the Business and Professions
32 Code is repealed.

33 SEC. 32. *Section 7685.2 of the Business and*
34 *Professions Code is amended to read:*

35 7685.2. (a) No funeral director shall enter into a
36 contract for furnishing services or property in connection
37 with the burial or other disposal of human remains until
38 he or she has first submitted to the potential purchaser of
39 those services or property a written or printed
40 memorandum containing the following information,

1 provided that information is available at the time of
2 execution of the contract:

3 (1) The total charge for the funeral director's services
4 and the use of his or her facilities, including the
5 preparation of the body and other professional services,
6 and the charge for the use of automotive and other
7 necessary equipment.

8 (2) An itemization of charges for the following
9 merchandise as selected: the casket, an outside
10 receptacle, and clothing.

11 (3) An itemization of fees or charges and the total
12 amount of cash advances made by the funeral director for
13 transportation, flowers, cemetery or crematory charges,
14 newspaper notices, clergy honorarium, transcripts,
15 telegrams, long distance telephone calls, music, and any
16 other advances as authorized by the purchaser.

17 (4) An itemization of any other fees or charges not
18 included above.

19 (5) The total of the amount specified in paragraphs (1)
20 to (4), inclusive.

21 If the charge for any of the above items is not known
22 at the time the contract is entered into, the funeral
23 director shall advise the purchaser of the charge therefor,
24 within a reasonable period after the information becomes
25 available. All prices charged for items covered under
26 Sections 7685 and 7685.1 shall be the same as those given
27 under such sections.

28 (b) A funeral ~~director~~ *establishment* shall obtain from
29 the person with the right to control the disposition
30 pursuant to Section 7100 of the Health and Safety Code,
31 or the person prearranging the cremation and disposition
32 of his or her own remains, a signed declaration
33 designating specific instructions with respect to the
34 disposition of cremated remains. The department shall
35 make available a form upon which the declaration shall
36 be made. The form shall include, but not be limited to, the
37 names of the persons with the right to control the
38 disposition of the cremated remains and the person who
39 is contracting for the cremation services; the name of the
40 deceased; the name of the funeral ~~director~~ *establishment*

1 in possession of the remains; the name of the
2 crematorium; and specific instructions regarding the
3 manner, location, and other pertinent details regarding
4 the disposition of cremated remains. The form shall be
5 signed and dated by the person arranging for the
6 cremation and the funeral director, *employee, or agent*
7 *of the funeral establishment* in charge of ~~providing~~
8 *arranging or prearranging the cremation service.*

9 (c) A funeral director entering into a contract to
10 furnish cremation services shall provide to the purchaser
11 of cremation services, either on the first page of the
12 contract for cremation services, or on a separate page
13 attached to the contract, a written or printed notice
14 containing the following information:

15 ~~(1) FOR MORE INFORMATION ON CEMETERY~~
16 ~~AND CREMATION MATTERS, CONTACT:~~
17 ~~Department of Consumer Affairs (800) 952-5210.~~

18 ~~(2)~~ A person having the right to control disposition of
19 cremated remains may remove the remains in a durable
20 container from the place of cremation or interment,
21 pursuant to Section 7054.6 of the Health and Safety Code.

22 ~~(3)~~
23 (2) If the cremated remains container cannot
24 accommodate all cremated remains of the deceased, the
25 crematory shall provide a larger cremated remains
26 container at no additional cost, or place the excess in a
27 second container that cannot easily come apart from the
28 first, pursuant to Section 8345 of the Health and Safety
29 Code.

30 *SEC. 33. Section 7685.3 of the Business and*
31 *Professions Code is amended to read:*

32 ~~7685.3. Commencing January 1, 1994, the~~ *The* current
33 address, telephone number, and name of the
34 Department of Consumer Affairs, Cemetery and Funeral
35 Programs shall appear on the first page of any contract for
36 goods and services offered by a funeral director. At a
37 minimum, the information shall be in 8-point boldface
38 type and make this statement:
39

1 “FOR MORE INFORMATION ON FUNERAL,
2 CEMETERY, AND CREMATION MATTERS,
3 CONTACT: DEPARTMENT OF CONSUMER
4 AFFAIRS, (ADDRESS), (TELEPHONE NUMBER).”
5

6 *SEC. 34. Section 13401 of the Corporations Code is*
7 *amended to read:*

8 13401. As used in this part:

9 (a) “Professional services” means any type of
10 professional services that may be lawfully rendered only
11 pursuant to a license, certification, or registration
12 authorized by the Business and Professions Code or the
13 Chiropractic Act.

14 (b) “Professional corporation” means a corporation
15 organized under the General Corporation Law or
16 pursuant to subdivision (b) of Section 13406 that is
17 engaged in rendering professional services in a single
18 profession, except as otherwise authorized in Section
19 13401.5, pursuant to a certificate of registration issued by
20 the governmental agency regulating the profession as
21 herein provided and that in its practice or business
22 designates itself as a professional or other corporation as
23 may be required by statute. However, any professional
24 corporation or foreign professional corporation
25 rendering professional services by persons duly licensed
26 by the Medical Board of California or any examining
27 committee under the jurisdiction of the board, the Board
28 of Dental Examiners, the California State Board of
29 Pharmacy, the Veterinary Medical Board, the California
30 Board of Architectural Examiners, the Court Reporters
31 Board of California, *the Board of Behavioral Sciences*, or
32 the Board of Registered Nursing shall not be required to
33 obtain a certificate of registration in order to render those
34 professional services.

35 (c) “Foreign professional corporation” means a
36 corporation organized under the laws of a state of the
37 United States other than this state that is engaged in a
38 profession of a type for which there is authorization in the
39 Business and Professions Code for the performance of

1 professional services by a foreign professional
2 corporation.

3 (d) “Licensed person” means any natural person who
4 is duly licensed under the provisions of the Business and
5 Professions Code or the Chiropractic Act to render the
6 same professional services as are or will be rendered by
7 the professional corporation or foreign professional
8 corporation of which he or she is or intends to become, an
9 officer, director, shareholder, or employee.

10 (e) “Disqualified person” means a licensed person
11 who for any reason becomes legally disqualified
12 (temporarily or permanently) to render the professional
13 services that the particular professional corporation or
14 foreign professional corporation of which he or she is an
15 officer, director, shareholder, or employee is or was
16 rendering.

17 *SEC. 35. Section 7055 of the Health and Safety Code*
18 *is amended to read:*

19 7055. Every person, ~~other than an officer of a duly~~
20 ~~accredited medical college engaged in official duties with~~
21 ~~respect to the body of a decedent who has willfully~~
22 ~~donated his or her body to the medical college,~~ who for
23 himself or herself or for another person, inters or
24 incinerates a body or permits the same to be done, or
25 removes any remains, other than cremated remains, from
26 the primary registration district in which the death or
27 incineration occurred or the body was found, except a
28 removal by a funeral director in a funeral director’s
29 conveyance *or an officer of a duly accredited medical*
30 *college engaged in official duties with respect to the body*
31 *of a decedent who has willfully donated his or her body*
32 *to the medical college* from that registration district *or*
33 *county* to another registration district ~~in~~ *or county,* *or*
34 *within the same* ~~or another county~~ *registration district or*
35 *county,* without the authority of a burial or removal
36 permit issued by the local registrar of the district in which
37 the death occurred or in which the body was found; or
38 removes interred human remains from the cemetery in
39 which the interment occurred, or removes cremated
40 remains from the premises on which the cremation

1 occurred without the authority of a removal permit is
2 guilty of a misdemeanor and punishable as follows:

3 (a) For the first offense, by a fine of not less than ten
4 dollars (\$10) nor more than five hundred dollars (\$500).

5 (b) For each subsequent offense, by a fine of not less
6 than fifty dollars (\$50) nor more than five hundred dollars
7 (\$500) or imprisonment in the county jail for not more
8 than 60 days, or by both.

9 *SEC. 36. Section 7100 of the Health and Safety Code*
10 *is amended to read:*

11 7100. (a) The right to control the disposition of the
12 remains of a deceased person, the location and conditions
13 of interment, and arrangements for funeral goods and
14 services to be provided, unless other directions have been
15 given by the decedent pursuant to Section 7100.1, vests in,
16 and the duty of disposition and the liability for the
17 reasonable cost of disposition of the remains devolves
18 upon, the following in the order named:

19 (1) An attorney-in-fact under a durable power of
20 attorney for health care executed pursuant to Chapter 1
21 (commencing with Section 4600) of Part 4 of Division 4.5
22 of the Probate Code.

23 (2) The *competent* surviving spouse.

24 (3) The sole surviving *competent* adult child of the
25 decedent, or if there is more than one *competent* adult
26 child of the decedent, ~~one-half or more of the majority of~~
27 the surviving *competent* adult children. However, less
28 than one-half of the surviving adult children shall be
29 vested with the rights and duties of this section if they
30 have used reasonable efforts to notify all other surviving
31 *competent* adult children of their instructions and are not
32 aware of any opposition to those instructions on the part
33 of more than one-half of all surviving *competent* adult
34 children. ~~For purposes of this section, "adult child" means~~
35 ~~a competent natural or adopted child of the decedent~~
36 ~~who has attained 18 years of age.~~

37 (4) The surviving *competent* parent or parents of the
38 decedent. If one of the surviving *competent* parents is
39 absent, the remaining *competent* parent shall be vested
40 with the rights and duties of this section after reasonable

1 efforts have been unsuccessful in locating the absent
2 surviving *competent* parent.

3 (5) The surviving competent adult person or persons
4 respectively in the next degrees of kindred. If there is
5 more than one surviving *competent adult* person of the
6 same degree of kindred, the majority of those persons.
7 Less than the majority of surviving *competent adult*
8 persons of the same degree of kindred shall be vested
9 with the rights and duties of this section if those persons
10 have used reasonable efforts to notify all other surviving
11 *competent adult* persons of the same degree of kindred
12 of their instructions and are not aware of any opposition
13 to those instructions on the part of one-half or more of all
14 surviving *competent adult* persons of the same degree of
15 kindred.

16 (6) The public administrator when the deceased has
17 sufficient assets.

18 (b) (1) If any person to whom the right of control has
19 vested pursuant to subdivision (a) has been charged with
20 first or second degree murder or voluntary manslaughter
21 in connection with the decedent's death and those
22 charges are known to the funeral director or cemetery
23 authority, the right of control is relinquished and passed
24 on to the next of kin in accordance with subdivision (a).

25 (2) If the charges against the person are dropped, or
26 if the person is acquitted of the charges, the right of
27 control is returned to the person.

28 (3) Notwithstanding this subdivision, no person who
29 has been charged with first or second degree murder or
30 voluntary manslaughter in connection with the
31 decedent's death to whom the right of control has not
32 been returned pursuant to paragraph (2) shall have any
33 right to control disposition pursuant to subdivision (a)
34 which shall be applied, to the extent the funeral director
35 or cemetery authority know about the charges, as if that
36 person did not exist.

37 (c) A funeral director or cemetery authority shall have
38 complete authority to control the disposition of the
39 remains, and to proceed under this chapter to recover

1 usual and customary charges for the disposition, when
2 both of the following apply:

3 (1) Either of the following applies:

4 (A) The funeral director or cemetery authority has
5 knowledge that none of the persons described in
6 paragraphs (1) to ~~(6)~~ (5), inclusive, of subdivision (a)
7 exists.

8 (B) None of the persons described in paragraphs (1)
9 to ~~(6)~~ (5), inclusive, of subdivision (a) can be found after
10 reasonable inquiry, or contacted by reasonable means.

11 (2) The public administrator fails to assume
12 responsibility for disposition of the remains within seven
13 days after having been given written notice of the facts.
14 Written notice may be delivered by hand, U.S. mail,
15 facsimile transmission, or telegraph.

16 (d) The liability for the reasonable cost of final
17 disposition devolves jointly and severally upon all kin of
18 the decedent in the same degree of kindred and upon the
19 estate of the decedent. However, if a person accepts the
20 gift of an entire body under subdivision (a) of Section
21 7155.5, that person, subject to the terms of the gift, shall
22 be liable for the reasonable cost of final disposition of the
23 decedent.

24 (e) This section shall be administered and construed to
25 the end that the expressed instructions of the decedent
26 or the person entitled to control the disposition shall be
27 faithfully and promptly performed.

28 (f) A funeral director or cemetery authority shall not
29 be liable to any person or persons for carrying out the
30 instructions of the decedent or the person entitled to
31 control the disposition.

32 (g) For purposes of ~~paragraph (5) of subdivision (a),~~
33 ~~“competent adult”~~ *this section, “adult” means an adult*
34 *individual who has attained 18 years of age, “child” means*
35 *a natural or adopted child of the decedent, and*
36 *“competent” means an individual who has not been*
37 *declared incompetent by a court of law or who has been*
38 *declared competent by a court of law following a*
39 *declaration of incompetence.*

1 *SEC. 37. No reimbursement is required by this act*
2 *pursuant to Section 6 of Article XIII B of the California*
3 *Constitution because the only costs that may be incurred*
4 *by a local agency or school district will be incurred*
5 *because this act creates a new crime or infraction,*
6 *eliminates a crime or infraction, or changes the penalty*
7 *for a crime or infraction, within the meaning of Section*
8 *17556 of the Government Code, or changes the definition*
9 *of a crime within the meaning of Section 6 of Article*
10 *XIII B of the California Constitution.*

